

§ 140.61 [Reserved]

**§ 140.72 Delegation of authority to disclose confidential information to a contract market, registered futures association or self-regulatory organization.**

(a) Pursuant to the authority granted under sections 2(a)(11), 8a(5) and 8a(6) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Deputy Executive Director, the Special Assistant to the Executive Director, the Director of the Division of Trading and Markets, each Deputy Director of the Division of Trading and Markets, the Chief Accountant, the General Counsel, each Deputy General Counsel, the Director of the Division of Economic Analysis, each Deputy Director of the Division of Economic Analysis, the Director of the Market Surveillance Section, the Director of the Division of Enforcement, each Deputy Director of the Division of Enforcement, each Associate Director of the Division of Enforcement, the Chief Counsel of the Division of Enforcement, each Regional Counsel of the Division of Enforcement, each of the Regional Coordinators, each of the Directors of the Market Surveillance Branches, the Director of the Office of International Affairs, and the Deputy Director of the Office of International Affairs, the authority to disclose to an official of any contract market, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934, any information necessary or appropriate to effectuate the purposes of the Act, including, but not limited to, the full facts concerning any transaction or market operation, including the names of the parties thereto. This authority to disclose shall be based on a determination that the transaction or market operation disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors or that disclosure is necessary or appropriate to effectuate the purposes of the Act. The authority to make such a determination is also delegated by the Commission to the Commission employees identified

in this section. A Commission employee delegated authority under this section may exercise that authority on his or her own initiative or in response to a request by an official of a contract market, registered futures association or self-regulatory organization.

(b) Disclosure under this section shall only be made to a contract market, registered futures association or self-regulatory organization official who is named in a list filed with the Commission by the chief executive officer of the contract market, registered futures association or self-regulatory organization, which sets forth the official's name, business address and telephone number. The chief executive officer shall thereafter notify the Commission of any deletions or additions to the list of officials authorized to receive disclosures under this section. The original list and any supplemental list required by his paragraph shall be filed with the Secretary of the Commission, and a copy thereof shall also be filed with the Regional Coordinator for the region in which the contract market is located or in which the registered futures association or self-regulatory organization has its principal office.

(c) Notwithstanding the provisions of paragraph (a) of this section, in any case in which a Commission employee delegated authority under this section believes it appropriate, he or she may submit to the Commission for its consideration the question of whether disclosure of information should be made.

(d) For purposes of this section, the term "official" shall mean any officer or member of a committee of a contract market, registered futures association or self-regulatory organization who is specifically charged with market surveillance or audit or investigative responsibilities, or their duly authorized representative or agent, who is named on the list filed pursuant to paragraph (b) of this section or any supplement thereto.

(e) For the purposes of this section, the term "self-regulatory organization" shall mean the same as that defined in section 3(a) (26) of the Securities Exchange Act of 1934.

(f) Any contract market, registered futures association or self-regulatory

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organization receiving information from the Commission under these provisions shall not disclose such information except that disclosure may be made in any self-regulatory action or proceeding.

[48 FR 22134, May 17, 1983, as amended at 57 FR 20638, May 14, 1992; 61 FR 1709, Jan. 23, 1996; 65 FR 64137, Oct. 26, 2000; 66 FR 1576, Jan. 9, 2001]

### **§ 140.73 Delegation of authority to disclose information to United States, States, and foreign government agencies and foreign futures authorities.**

(a) Pursuant to sections 2(a)(11), 8a(5) and 8(e) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the General Counsel or, in his or her absence, to each Deputy General Counsel, the Director of the Division of Enforcement, each Deputy Director of the Division of Enforcement, the Chief Counsel of the Division of Enforcement, each Associate Director of the Division of Enforcement, each Regional Counsel of the Division of Enforcement, the Director of the Division of Economic Analysis or, in his or her absence, each Deputy Director of the Division, the Director of the Market Surveillance Section, the Director of the Division of Trading and Markets or, in his or her absence, each Deputy Director of the Division of Trading and Markets, and the Director of the Office of International Affairs or, in his or her absence, the Deputy Director of the Office of International Affairs, the authority to furnish information in the possession of the Commission obtained in connection with the administration of the Act, upon written request, to:

(1) Any department or agency of the United States, including for this purpose an independent regulatory agency, acting within the scope of its jurisdiction;

(2) Any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction; or

(3) Any foreign futures authority, as defined in section 1a(10) of the Act, or any department or agency of any foreign government or political subdivision thereof, acting within the scope of

its jurisdiction, provided that the Commission official making the disclosure is satisfied that the information will not be disclosed except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof, or foreign futures authority is a party.

(b) Any disclosure made pursuant to paragraph (a) of this section shall be made with the concurrence of the Director of the Division of Enforcement or in his or her absence a Deputy Director of the Division of Enforcement. Provided, however, that no such concurrence is necessary for the Director of the Division of Economic Analysis or in his or her absence each Deputy Director of the Division or for the Director of the Market Surveillance Section to release information under paragraph (a)(1) of this section concerning current or on-going market transactions or operations.

(c) In furnishing information under this delegation pursuant to paragraphs (a)(1) and (2) of this section, the Commission official making the disclosure shall remind the department or agency involved that section 8(e) of the Act prohibits the disclosure by such department or agency of information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers except in an action or proceeding under the laws of the United States, the State, or a political subdivision thereof to which the department or the agency of either the state or political subdivision, the Commission, or the United States is a party.

(d) This delegation shall not affect any other delegation which the Commission has made or may make, which authorizes any other officer or employee of the Commission to furnish information to governmental bodies on the Commission's behalf.

(e) Notwithstanding the provisions of paragraph (a) of this section, in any case in which any employee delegated authority therein believes it appropriate the matter may be submitted to the Commission for its consideration.